

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PELO GARCIA,

Petitioner,

v.

THERESA DELBALSO, et al.,

Respondents.

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CIVIL ACTION

No. 18-cv-05639-JLS

ORDER

AND NOW, this 10th day of December, 2019, upon careful and independent consideration of Pelo Garcia's petition for writ of habeas corpus (Doc. No. 2), the Respondents' response in opposition (Doc. No. 12), Mr. Tucker's reply (Doc. No. 13), and the Report and Recommendation of U.S. Magistrate Judge Richard A. Lloret (Doc. No. 14), it is **ORDERED** that:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is **APPROVED** and **ADOPTED**;
2. Mr. Garcia's Petition for Writ of Habeas Corpus is **DENIED** and **DISMISSED** with prejudice by separate Judgment, filed contemporaneously with this Order. *See* Federal Rule of Civil Procedure 58(a); Rules Governing Section 2254 Cases in the United States District Courts, Rule 12;
3. No certificate of appealability shall issue under 28 U.S.C. § 2253(c)(1)(A) because "the applicant has [not] made a substantial showing of the denial of a constitutional right[,]" under 28 U.S.C. § 2253(c)(2), since he has not demonstrated that "reasonable jurists" would find my "assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S.

473, 484 (2000); *see United States v. Cepero*, 224 F.3d 256, 262-63 (3d Cir. 2000), *abrogated on other grounds by Gonzalez v. Thaler*, 565 U.S. 134 (2012); and

4. The Clerk of Courts shall mark this file closed.

BY THE COURT:

/s/ Jeffrey L. Schmehl
HON. JEFFREY L. SCHMEHL
U.S. DISTRICT JUDGE